

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

MARCUS A. MADDEN,

Plaintiff,

vs.

SOCIAL SECURITY ADMINISTRATION,

Defendant.

Case No.: 2:18-cv-00122-GMN-NJK


**ORDER**

Pending before the Court is the Motion to Dismiss, (ECF No. 9), filed by Plaintiff Marcus A. Madden ("Plaintiff"). In the Motion, Plaintiff states that he filed this action against Defendant Social Security Administration ("Defendant") prematurely because Defendant has yet to issue a final decision in the underlying administrative action. (*See id.*). Plaintiff therefore requests that the Court dismiss this action so that he can refile after Defendant issues a final decision. (*See id.*).

The Court construes Plaintiff's Motion as a request for voluntary dismissal. Under Federal Rule of Civil Procedure 41(a)(1), a plaintiff may dismiss an action by filing "a notice of dismissal before the opposing party serves either an answer or a motion for summary judgement." Fed. R. Civ. P. 41(a)(1). Defendant has not filed an answer or motion for summary judgment in this case.

Accordingly, **IT IS HEREBY ORDERED** that this action is **DISMISSED** without prejudice.

**DATED** this 5 day of February, 2019.

  
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Gloria M. Navarro, Chief Judge  
United States District Court